**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE P.R.RAMAN**

**TUESDAY, THE 12TH DECEMBER 2006 / 21ST AGRAHAYANA 1928**

**WP(C).No. 32512 of 2006(U)**
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**PETITIONER:**
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**M.NIZAR, AGED 34,**
**CONTRACTOR, S/O.C.P.MOOSAKUTY,**
**PATTAYAM, KOLACHERRY P.O., KANNUR.**

**BY ADV. SRI.P.JACOB VARGHESE**
**SRI.V.MANOJ KUMAR**
**SRI.VARUGHESE M EASO**
**SMT.PRAISHEEL PRAKASAM**
**SRI.VIVEK VARGHESE P.J.**
**SRI.K.B.ARUN**

**RESPONDENTS:**
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**1. DEPUTY COMMISSIONER (APPEALS),**
**COMMERCIAL TAXES, KOZHIKODE.**

**2. SALES TAX OFFICER (WORKS CONTRACT AND**
**LUXURY TAX), IST CIRCLE, KANNUR.**

**3. DEPUTY TAHSILDAR (RR),**
**THALIPARAMBA, KANNUR.**

**4. TAHSILDAR,**
**THALIPARAMBA.**

**5. STATE OF KERALA,**
**REP.BY PRINCIPAL SECRETARY,**
**GOVT. SECRETARIAT, THIRUVANANTHAPURAM.**

**BY GOVERNMENT PLEADER SRI.SOJAN JAMES**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**P.R.RAMAN, J.**

**W.P.(C) NO. 32512 OF 2006**

**Dated this the 12th day of December, 2006**

**J U D G M E N T**

Petitioner is a contractor who was assessed to sales tax by Exhibit P2 dated 02/01/2006 against which he has preferred an appeal before the Deputy Commissioner. As evidenced by Exhibit P4 along with stay application Exhibit P5, no orders were passed on Exhibit P5.

2. According to the petitioner, awarder has already deducted the tax at the time of payment of the amount as contemplated by law. He seeks reliance on Exhibit P1 which would show that as per Chellan No.780116 dated 16/9/2002, an amount of Rs.29,828 being sales tax due was deducted from out of the amount payable to him. As per the order of the Assessing Officer, the balance tax due is Rs.31,878/-. In such circumstances, petitioner has made out a strong case and the balance of convenience is also in his favour.

3. In the above facts and circumstances, instead of directing the appellate authority to pass order in the stay application, interest of justice demands that revenue recovery

proceedings initiated by Exhibit P7 be stayed. Accordingly, all further proceedings pursuant to Exhibits P6 and P7 will stand stayed until the disposal of the appeal by the appellate authority.

Writ petition is allowed.

**P.R.RAMAN, JUDGE**

Rp